

**CITY OF NEWPORT BEACH
PLANNING COMMISSION AGENDA
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE**

**THURSDAY, AUGUST 22, 2013
REGULAR MEETING – 6:30 p.m.**

**BRADLEY HILLGREN
Chair**

**LARRY TUCKER
Vice Chair**

**KORY KRAMER
Secretary**

FRED AMERI

TIM BROWN

RAYMOND LAWLER

JAY MYERS

Planning Commissioners are citizens of Newport Beach who volunteer to serve on the Planning Commission. They were appointed by the City Council by majority vote for 4-year terms. At the table in front are City staff members who are here to advise the Commission during the meeting. They are:

KIMBERLY BRANDT, Community Development Director

**BRENDA WISNESKI, Deputy Community
Development Director**

LEONIE MULVIHILL, Assistant City Attorney

TONY BRINE, City Traffic Engineer

MARLENE BURNS, Administrative Assistant

NOTICE TO THE PUBLIC

Regular meetings of the Planning Commission are held on the Thursdays preceding second and fourth Tuesdays of each month at 6:30 p.m. The agendas, minutes, and staff reports are available on the City's web site at: <http://www.newportbeachca.gov> and for public inspection in the Community Development Department, Planning Division located at 100 Civic Center Drive, during normal business hours. If you have any questions or require copies of any of the staff reports or other documentation, please contact the Community Development Department, Planning Division staff at (949) 644-3200.

This Commission is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least 72 hours in advance of each meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally three (3) minutes per person. All testimony given before the Planning Commission is recorded.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant of this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, at least 72 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or lbrown@newportbeachca.gov).

APPEAL PERIOD: Use Permit, Variance, Site Plan Review, and Modification Permit applications do not become effective until 14 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. Tentative Tract Map, Tentative Parcel Map, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. General Plan and Zoning Amendments are automatically forwarded to the City Council for final action.

**NEWPORT BEACH PLANNING COMMISSION AGENDA
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, AUGUST 22, 2013
REGULAR MEETING – 6:30 p.m.**

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. ELECTION OF OFFICERS (CONTINUED FROM PREVIOUS MEETING)

1. Appointment to the General Plan/LCP Committee
 - a. Chair to appoint one additional member, and confirm existing appointments.

V. PUBLIC COMMENTS

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.

VI. REQUEST FOR CONTINUANCES

VII. CONSENT ITEMS

ITEM NO. 1 MINUTES OF AUGUST 8, 2013

Recommended Action: Approve and file

VIII. PUBLIC HEARING ITEMS

Speakers must limit comments to three (3) minutes on all items. Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.

If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues, which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

ITEM NO. 2 HORMANN VARIANCE (PA2013-086)

Site Location: 417 and 419 E. Balboa Boulevard

Summary:

The applicant proposes to maintain/remodel the existing 1,785-square-foot duplex and to add 1,989 square feet on the rear of the property including a two-car garage and attached two-car carport. All new construction will comply with the Zoning Code-required development standards. The existing duplex is nonconforming because it encroaches into the required 3-foot side setbacks and 5-foot front setback. Additions to nonconforming structures are limited to 50 percent of the existing floor area. A variance is required for the proposed project as it would result in a 111-percent addition.

CEQA Compliance:

Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

Should the Planning Commission act to approve the request, the project would be categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines – Class 3 (New Construction or Conversion of Small Structures).

Recommended Action:

1. Conduct public hearing; and

2. Adopt Resolution No. ____ denying Variance No. VA2013-002.

ITEM NO. 3 UPTOWN NEWPORT MSDR (PA2013-129)
Site Location: 4311-4321 Jamboree Road

Summary:

A Master Site Development Review application for the Uptown Newport mixed-use residential project which consists of 1,244 residential units, 11,500 square feet of neighborhood-serving retail space, and approximately two (2) acres of park space. The purpose of the Master Site Development Review is to ensure that project will be developed in a cohesive manner in phases consistent with the approved Uptown Newport Planned Community Development Plan (PCDP), Development Agreement, environmental mitigation measures, and applicable City codes and standards.

CEQA Compliance:

All environmental effects of the Uptown Newport Planned Community have been previously addressed by the certification of Environmental Impact Report No. ER2012-001 (SCH No. 2010051094) and approving Master Site Development Review No. SD2013-002.

Recommended Action:

1. Conduct public hearing; and
2. Provide direction to the applicant and/or staff regarding the adequacy of the architectural focal point provision at either end of the main entry drive at the Fairchild intersection; and
3. Adopt Resolution No. ____ finding that all environmental effects of the Uptown Newport Planned Community have been previously addressed by the certification of Environmental Impact Report No. ER2012-001 (SCH No. 2010051094) and approving Master Site Development Review No. SD2013-002.

ITEM NO. 4 LIDO VILLAS (PA2012-146)
Site Location: 3303 and 3355 Via Lido

Summary:

The project consists of the demolition of a 3-story commercial building, a single-story church building (First Church of Christ, Scientist), and a 56-space surface parking lot to accommodate the development of 23 townhouse-style multi-family dwelling units on a 1.2 acre site. The following applications are requested in order to implement the project as proposed:

1. **General Plan Amendment** - to change the land use of a portion of the project site (3303 Via Lido) from PI (Private Institutions, 0.75) to RM (Multi-Unit Residential, 20 DU/acre).
2. **Coastal Land Use Plan Amendment** - to change the land use of a portion of the project site (3303 Via Lido) from PI-B (Private Institutions) to RM-D (Multiple-Unit Residential).
3. **Zoning Code Amendment** - to change the Zoning designations of the properties at 3303 Via Lido from PI (Private Institutions) and 3355 Via Lido from RM (Multiple-Unit Residential, 2178) and establish a Planned Community Development Plan (PC) Zoning District over the entire project site with development standards for a new 23-unit multi-family project. In order to establish the proposed planned community development plan, a waiver of the minimum site area of 10 acres of developed land is necessary.
4. **Site Development Review** - to allow the construction of 23 townhouse-style multi-family dwelling units.
5. **Tract Map** - to combine six underlying parcels on two existing properties and establish a 23-unit residential condominium tract on a 1.2 acre site.
6. **Mitigated Negative Declaration** - to evaluate environmental impacts relative to the California Environmental Quality Act (CEQA).

CEQA Compliance:

Prior to making a recommendation on the proposed project, the Planning Commission must first review, consider, and recommend City Council adoption of the Mitigated Negative Declaration (MND). On the

basis of the analysis provided in the MND, City staff has concluded that the project would not have a significant impact on the environment. The MND was completed and circulated for a mandatory 30-day public-review period that began on July 12, 2013, and concluded on August 13, 2013. The public comment period was extended through August 13, 2013 to allow for comments received through OPR (the Office of Planning and Research), which began the review period on July 15, 2013.

Recommended Action:

1. Conduct public hearing; and
2. Adopt Resolution No. ____ and attached Exhibits recommending the City Council:
 - Adopt Mitigated Negative Declaration No. ND2013-001;
 - Approve General Plan Amendment No. GP2012-005;
 - Approve Local Coastal Plan Amendment No. LC2013-001;
 - Approve Code Amendment No. CA2012-008;
 - Approve Site Development Review No. SR2013-001; and
 - Approve Tract Map No. NT2013-001
(Tentative Tract Map No.17555).

ITEM NO. 5 HOUSING ELEMENT UPDATE (PA2012-104)

Site Location: 100 Civic Center Dr., Newport Beach

Summary:

An amendment of the Newport Beach General Plan updating the Housing Element for the years 2014 through 2021. The Housing Element is one of the mandatory elements of the General Plan, and State law requires it to be updated periodically. The Newport Beach Housing Element details the City's strategy for enhancing and preserving the community's character and identifies constraints to the development of housing. It also identifies strategies for expanding housing opportunities and services for all household types and income groups. Most importantly, it provides the primary policy guidance for local decision-making related to housing. The draft 2014-2021 Housing Element (Draft) is an update and revision of the adopted 2008-2014 Housing Element and it contains updated community data, policies, and programs.

The 2014-2021 Housing Element is accessible online at <http://www.newportbeachca.gov/housingelementupdate>.

CEQA Compliance:

All significant environmental concerns for the proposed project have been addressed in a previously certified Negative Declaration (ND) SCH No. 2011091088 for the 2008-2014 Housing Element Update. The 2014-2021 Housing Element is a minor revision and update with no new analysis required. The ND uses and incorporates by reference the environmental analysis from the City of Newport Beach Environmental Impact Report General Plan 2006 Update SCH No. 2006011119, certified on July 25, 2006. The ND indicates that the Housing Element Update will not result in a significant effect on the environment and further that there are no additional alternatives or mitigation measures that should be considered in conjunction with said project. Copies of the previously prepared environmental document are available for public review and inspection at the Planning Division or at the City of Newport Beach website under Archived Environmental Documents at www.newportbeachca.gov/cequadocuments.

Recommended Action:

1. Conduct public hearing; and
2. Adopt Resolution No. ____ recommending adoption of the 2014-2021 Housing Element Update to the City Council.

IX. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 MOTION FOR RECONSIDERATION

ITEM NO. 7 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Committee Updates:

1. Land Use Element Amendment Advisory Committee
2. General Plan/Local Coastal Program Implementation Committee

ITEM NO. 8 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT

ITEM NO. 9 REQUESTS FOR EXCUSED ABSENCES

X. ADJOURNMENT

August 22, 2013 Planning Commission Agenda Comments

Comments by: Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229). ~~strikeout~~ underline format is used to suggest changes to the passages quoted in *italics*

Item No. 1 Minutes of August 8, 2013

I did not detect any typos.

Item No. 3 Uptown Newport MS DR (PA2013-129)

1. Since I don't see it mentioned in the staff report or proposed Resolution of Approval, I think the Commission should be made aware that since they last reviewed this project, changes were made to the parcel map at a Zoning Administrator hearing originally scheduled for the [June 13, 2013 session](#) (main staff report), but continued to [June 27](#) (supplementary staff report).
 - a. At the latter hearing, the property was subdivided into four parcels in way that seemed inconsistent, at least to me, with the previously-approved Phasing Plan.
 - b. In particular, the northernmost street providing access to Jamboree was made part of the Phase 2 parcels, even though I thought the Commission regarded the maintenance of that access as critical to the Phase 1 development.
 - c. The developer assured the Zoning Administrator that this was just some kind of intermediate paperwork, and I don't know how it affects the present MS DR request, but the Commission may want further information.
2. Regarding the draft Resolution of Approval, the following minor typos are noted:
 - a. Page 3 (handwritten 19), first line: "*There are no additional reasonable ~~alternative~~ alternatives or mitigation measures that should be considered in conjunction with the MS DR application or its implementation.*"
 - b. Page 4 (handwritten 20):
 - i. First line: "*The MS DR application includes ~~Phases~~ Phase 1 and 2 development plans ...*"
 - ii. End of second line of C1: is "*legible*" the correct/intended word?
 - iii. Third line of C1: "*Sheets A1-A8 of the Phase 1 plan set ...*"
 - c. Page 6 (handwritten 22), I don't know if the Zoning Administrator approved actions affect the legal description, but there now seem to be four lots rather than two.
3. On handwritten page 25, I would note that what are presumably the plans described in the printed staff report as "*Available for inspection*" at the City Hall are actually included in the electronic staff report (PDF pages 24-75). It would have seemed useful to provide a reference to this in the printed version so those reading the 25 page printed report didn't think they had to visit City Hall in person to see the proposed designs.
4. I would also like to note that the City maintains a "Current Projects & Issues" page informing the public about the status of the [Uptown Newport Project](#), and it has not been updated to mention the most recent public meetings at which comment was invited, including the present one.

Item No. 4 Lido Villas (PA2012-146)

1. I am pleased to see (under “Additional Materials Received” on the [meeting page](#)) that the project architect is asking for a continuance of this hearing to September 5, since I, too, have not had time to adequately review the large volume of material related to this project, and noticed a number of typographical errors, inconsistencies and questionable statements in the part I did review.
2. At this point, although it may seem a small point, I am particularly concerned about the statements regarding the circulation period for the Mitigated Negative Declaration (page 22 of the staff report, and Section 2.2 of the proposed Resolution of Approval).
 - a. Although the unofficial Planning [Case Log](#) says (under the 07/15/2013 entry) “REVIEW PERIOD ENDS AUGUST 14, 2013,” and although the staff report and resolution say the review period ended August 13, as far as I know the public never saw anything other than a statement that comments had to be received by 5:00 pm on Monday, August 12. That was, and remains, the due date shown on the [Notice of Intent](#) (both on-line and enclosed with the MND copies in the City libraries), as well as the due date announced in the initial City “News Splash” which, to the best of my knowledge, was never revised.
 - b. I am particularly sensitive to the lack of any public notification of an extension to August 13 (or 14??), if that occurred, since written comments on the August 13 City Council agenda items were also due at 5:00 pm on August 12, and I had to choose between one or the other. Had I known of the extension, I might well have submitted comments on August 13 (or 14??).
 - c. I am also concerned about whether the Office of Planning and Research comment period was legally required to run 30 days. If so, and if it started on July 15 as the staff report says, then the August 13 end date cited in the staff report and resolution would be one day short, since the start date is not counted under California law. For a full 30 day review, an August 14 end date would have been required as indicated in the Case Log, but apparently nowhere else. The public may have been given a due date two days short of the true one.
3. My other primary concern at this point is whether the 35-foot Shoreline Height Limitation has become a flexible guideline, as the staff report and resolution suggest it has. Obviously Coastal Commission staff believes the Coastal Commission understood it to be a hard and definite limit.